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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,867	01/30/2004	Manabu Komiyama	19546.0049	3903

7590

09/02/2005

Swidler Berlin Shereff Friedman, LLP  
Suite 300  
3000 K Street, NW  
Washington, DC 20007-5116

EXAMINER
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LIVEDALEN, BRIAN J

ART UNIT	PAPER NUMBER
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2878

DATE MAILED: 09/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

**Office Action Summary**

Application No.

10/766,867

Applicant(s)

KOMIYAMA, MANABU

Examiner

Brian J. Livedalen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4-6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/28/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

Claims are objected to because they are not on a separate page.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Orr et al. (US 2003/0189711).

In regard to claim 1, Orr discloses (fig. 8) a splitting element (10) operable to split light outputted from a light source (2); a polarization control device (11) operable to switch a polarization state of light outputted from the splitting element in response to a control signal; a filter device (20) operable to receive light outputted by the polarization control device wherein transmittance characteristic of the filter device changes depending on the polarization state of the input light; and a second monitoring device (not shown) to detect an intensity of the light transmitted through the filter device;

wherein a wavelength fluctuation of the light source is detected based on intensity of light detected by the first or second monitoring devices (page 11, paragraph 0145).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orr et al. (US 2003/0189711) in view of Xia et al. (US 2003/0030881).

In regard to claims 2 and 3, Orr discloses an optical module having an etalon filter (page 11, paragraph 0142). Orr fails to disclose the filter device being arranged such that an angle of incidence of input light entering the filter device varies depending on the polarization state of the input light. However, Xia discloses (fig. 2A) arranging a filter (50) such that an angle of incidence of the input light entering the filter varies depending on the polarization from the polarization controller (fig. 1, 24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to rotate the filter of Orr according to the teaching of Xia in order to obtain distinct outputs based on the distinct polarizations. Orr further fails to disclose the filter being a birefringent crystal. Xia further discloses (fig. 2A) a filter (50) including birefringent crystal, and a direction of an optical axis of the birefringent crystal is set such that an index of refraction for the input light entering the filter varies depending on the

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polarization state of the input light. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the birefringent crystal of Xia in the optical module of Orr in order to further distinguish the filter output based on polarization.

### ***Allowable Subject Matter***

Claims 4-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The invention is not disclosed or made obvious by the prior art of record. The prior art does not disclose an optical module that compares outputs of the module while adjusting the polarity of one output by switching the polarization control device.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Livedalen whose telephone number is (571) 272-2715. The examiner can normally be reached on 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Porta can be reached on (571) 272-2444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

bjl

  
DAVID PORTA  
SUPERVISORY PATENT  
TECHNOLOGY CENTER